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LABOUR & E. S. I. DEPARTMENT

NOTIFICATION

The 1st December 2014

No. 9921—li/1(B)-53/2009-LESI.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 29th September 2014 in Industrial Dispute Case No. 45 of 2012 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the Management of M/s Kandoi Automobiles (P) Ltd., Head Office, Ashray Apartment, Flat Nos. B-102 and 103, 2nd Floor, Professor Para, Cuttack-12 and its workman Shri Balaram Barik was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE NO. 45 OF 2012

Dated the 29th September 2014

*Present :*

Shri S. K. Sahoo, o.s.J.S. (Jr. Branch),  
Presiding Officer, Labour Court, Bhubaneswar.

*Between :*

The Managing Director,  
M/s Kandoi Automobiles (P) Ltd.,  
Head Office, Ashray Apartment, Flat Nos. 102 and 103,  
2nd Floor, Professor Para, Cuttack - 12.

.. First Party—Management

*And*

Shri Balaram Barik,  
S/o Late Gajendra Barik, At Jaypur,  
P.O. Salagaon, P. S. Choudwar, Dist. Cuttack.

.. Second Party—Workman

*Appearances :*

None	.. For the First Party—Management
Shri Pradipta Kumar Baral	.. For the Second Party—Workman

## AWARD

This case has been initiated on receipt of reference by Government of Odisha vide its Order No. 8408—li/1(B) 53/2009-LESI., dated the 3rd October, 2012 in exercise of the power conferred under sub-section (5) of Section 12, read with Clause (c) of Section 1 of Section 10 of the Industrial Disputes Act, 1947(14 of 1947) and the reference is as follows :

“Whether the termination of services of Shri Balaram Barik, Helper by the Management of M/s Kandoi Automobiles (P) Ltd. with effect from the 1st August 2008 is legal and/or justified ? If not, to what relief Shri Barik is entitled to ?”

2. The case of the second party workman is that in the year 1986 he joined under the first party management as Mechanic Helper in the Factory situated at New Industrial Estate, Jagatpur, till the 31st July 2008. He was covered under E.S.I. and E.P.F. Scheme in the year 1988. All of a sudden on the 1st August 2008 while the second party workman approached for his work he was refused to work by the first party management. The approach of the second party to the first party for his reinstatement was in vain. So on the 5th August 2008 the second party workman had raised a industrial dispute before the D.L.O., Cuttack who had issued notice to the first party for a settlement. Due to the adamant attitude of the first party management the conciliation proceeding was ended in failure after several adjournment. At the time of refusal of service the second party was receiving monthly salary of Rs. 2,698. The second party workman had completed more than 240 days of work in a every calendar year from the year 1986 till 2008. Without any enquiry the service of the second party was terminated. The first party management has violated Section 25-F of Industrial Dispute Act, 1947 by not giving notice pay and compensation to the second party. Hence this case for reinstatement along with full back wages and other service benefits.

3. Although the first party management entered his appearance in Court through its representative in pursuance of notice issued by this Court, no written statement was filed nor the first party choose to contest the case for which it was set *ex parte* by order, dated the 13th June 2013.

4. The second party workman is examined as W.W.No. 1 and exhibits 1 to 4/a are marked on his behalf. Ext. 1 is the copy of application dated the 5th August 2008 submitted by the second party before D.L.O., Cuttack. Ext. 2 is the copy of the letter dated the 25th August 2008 submitted to the Managing Director of the first party management by the General Secretary, Jagatpur Industrial Workers Union. Ext. 3 is the E.S.I. Card of the second party. Exts. 4 and 4/a are the E.P.F. Slips.

5. In his evidence the second party workman W. W. No. 1 deposed that he joined as a Mechanic Helper under the first party management in the year, 1986 and continued to perform his duty till the 31st July 2008. He further deposed that he was covered under E.S.I. and E.P.F. Schemes while serving

under the first party management. It is also clear from his evidence that on the 1st August 2008 while he had been to perform his duty the first party management refused to perform his duty and since then he is not gainfully employed. Ext. 1 is the copy of the application filed by the second party before D.L.O., Cuttack on the 5th August 2008. From the evidence of W.W. No. 1 and contents of Ext. 1 it is clear that the second party had raised a Industrial Dispute in between him and the first party management before D.L.O., Cuttack but it did not yield any result due to the adamant attitude for the first party. Ext. 2 is the copy of a letter dated the 25th August 2008 addressed to the Managing Director of the first party organisation through the General Secretary of Jagatpur Industrial Workers Union in which the first party management was requested to reinstate the second party as he was illegally terminated. Ext. 3 is the E.S.I. Card which shows that the second party was an employee under the first party organisation. Exts. 4 and 4/a are the E.P.F. Slips from the ocular testimony of W. W. No. 1 and Ext. 3 it is clear that the second party was a workman under the first party organisation who served from the year, 1986 till the 31st July 2008. It is also clear from the evidence on the record that on the 1st August 2008 the first party management refused the second party to perform his duty. There is no material before this Court that the service of the second party was terminated by the first party after any domestic enquiry. The first party has not followed the principle of natural justice before refusal of service of the second party workman. In spite of notice issued to the first party management it did not choose to contest the case. The evidence of W. W. No. 1 is on oath and goes unchallenged. It is also reliable and trust worthy.

6. After analysing the evidence on record I am constrained to hold that the termination of services of Shri Balaram Barik, Helper by the Management of M/s Kandoi Automobiles (P) Ltd., with effect from the 1st August 2008 is not legal and not justified. The second party is directed to reinstate the second party workman in his service and to pay full back wages within one month of the publication of the Award in the Official Gazette, failing which it is liable to pay an interest @ 10% per annum till realization of the same.

The reference is disposed of accordingly.

Dictated and corrected by me.

S. K. SAHOO  
29-09-2014  
Presiding Officer  
Labour Court, Bhubaneswar

S. K. SAHOO  
29-09-2014  
Presiding Officer  
Labour Court, Bhubaneswar

By order of the Governor  
M. NAYAK  
Under-Secretary to Government